



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,505	06/07/2006	Sheila Kennedy	HMI P1191US2	8930
37190 7590 01/23/2009 VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP 333 BRIDGE STREET, NW P.O. BOX 352 GRAND RAPIDS, MI 49501-0352				
EXAMINER				
YIP, WINNIE S				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
01/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,505

Applicant(s)

KENNEDY ET AL.

Examiner

Winnie Yip

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
4a) Of the above claim(s) 1-25 and 72-80 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 26-71 and 81-89 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This office action is in response to applicant's response filed on October 30, 2008 .

Election/Restrictions

1. Applicant's election of invention Group II, claims 26-71 and 81-89 in the reply filed on October 30, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 26-71 and 81-89 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 30, 2008.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-60 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-60 of copending Application No. 10/526,515. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 26-71 and 81-89 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim language “for use with a supporting infrastructure”, “support means coupled to said supporting infrastructure” and “means for relocating relative to said supporting infrastructure” found in claim 26 renders the claims indefinite in the scope of the claimed invention. Notice, the phrase “for use with” in claim 16, line 4 does not positively set forth the relationship between “a space division system” and “a supporting infrastructure”. It is confusing whether applicant intends to claim a space division system in combination with a supporting infrastructure or a space division system per se. If applicant attempts to claim a combination, all structural limitations in the combination (for example, in this case, the space dividers, and the supporting infrastructure) must be positively claimed. For example, the phrase “for use with” may read “in combination with”. If applicant attempts to claim a space division system per se, he/she should claim all features of that functionally relative to those elements not in the claimed invention. Appropriate correction is required.

In this case, since applicant does not specifically define the “supporting infrastructure”, the claims have been treated on the merits as *a space division system itself*.

Further, in claim 26, the term “said partitions” (line 5) lacks a proper antecedent basis.

In claims 26, 27, 33, and 39-40, the term "said subset" (claim 26, line 12; claim 27, line 2; claim 33, line2) lacks a proper antecedent basis.

In claim 35, the terms "said main bodies" (line 3) lacks a proper antecedent basis. This term has been only defined in claim 27 but not in claim 26 and 33.

In claim 38, the claim is indefinite under 35 U.S.C. 112 as it attempts to claim both a system and a method for using that system. The phrase "formed by taking sections..., turning ... and then connecting ends...thorough the use of releasable securing means" merely recites a method of forming and using the system. A single claim which claims both an apparatus and the method steps of using and making the apparatus is indefinite under 35 USC 112, second paragraph, because it is unclear which category of invention is being claimed. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in an independent form.

In claim 40, the functional language "through which first linear LED lighting strips are inserted" is confusing whether applicant intends to claim the "first linear LED lighting strips" being part of the claimed invention. If so, the "first linear LED lighting strips" must be positively claimed. For example, by language "and first linear LED lighting strips being inserted therein".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 26, 40, 46, 50-54, 56-61, and 81-89 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,134,844 to Cornell et al.

Cornell et al. teach a space division system capably used with a supporting infrastructure inside a building, with the supporting infrastructure providing for distribution of electrical and communication signals, the space division system comprising: a plurality of vertically disposed space dividers (6); overhead rails (4) being supported by columns (3) in freestanding manner on the floor at a predetermined elevation, the rails (4) being coupled and arranged to define a plurality of spatial configurations including a series of S-shaped curvatures with varying radius (See Fig. 81 and Fig. 83), therefore, the rail and the columns providing support means such as electrical outlet boxes to which a supporting infrastructure such as a computer or telephone is coupled thereto; the vertically disposed space dividers (6) each having a hanger arrangement (8) providing means for relocating the space dividers at selected location to provide a subset of partially enclosed workstation with relative to the location of supporting infrastructures, the rail and columns having linear voids and spaces to run electrical cables therethrough and to support electrical outlets (i.e., 60, 61) for providing electrical and communication connection means to connect with electrical and combination components such as tables for computer and telephone for transmitting and/or receiving electrical and communication signals from the supporting infrastructure, and as so to apply the signals to functional accessories releasably coupled to the space dividers; wherein the electrical connecting means may include any suitable electrical elements including lower voltage DC power lines, communication cabling (333), AC power and AC power lines (330), and electrical receptacles (60, 61), lightings (159) to visually indicate

external and internal circumstances associated with the division system, electrical bus strips (158), associated connectors (220-222), and switches means includes switches for generating "on/off" states or remote control devices for controlling the functional accessories associated with the group communications to the supporting infrastructure, 1 and the support means (3) having adjustable footer (78) for adjusting the height of the spaced dividers, and the dividers may be formed with various materials for displacing various purposes. Wherein, at least one divider (6) is flexible (see Fig. 54-56, col. 22, lines 18-26) and comprises an upper structure batten (322), a main body (301) extending downwardly from the structure batten, and a lower hemmed section (322) having a weighted insert (323) (at lower side of the panel), and the main body being constructed of various suitable material such as a fabric made of woven material (300) and being substantially opaque, the main body may include a three-dimensional knit having two fabric material sheets (300) forming large pockets (321) therebetween, at least one space divider (6) made of translucent material to provide a visual barrier or partition to displace electronic or video display as desired, the space divider (6) may formed in various type configurations such as a honeycomb panel or a pleated panel which includes spaces and pockets formed between two flexible sheets, and at least two adjacent dividers being coupled side-by-side together by any suitable fastener means such as by spring clips for covering a larger area.

9. Claims 26, 33-39, 50-54, 56-71, and 81-89 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,683,100 to Deal et al.

Deal et al. teach a space division system capably used with a supporting infrastructure inside a building, with the supporting infrastructure providing for distribution of electrical and

Art Unit: 3636

communication signals, said space division system comprising: a plurality of vertical disposed space dividers (20), a plurality of overhead supports or rails (24) mounted to an articulating ceiling and being effectively arranged in a plurality of spatial configurations (i.e. rectangular) by suitable suspending fastening means to form subsets of partially enclosed workstations with relative to the locations of the supporting infrastructures, the overhead supports or rails (24) providing support means coupled to a supporting infrastructure and to the space dividers for moveably supporting the subset of space dividers from the supporting infrastructure, the space dividers (20) each having a hanger arrangement (26) disposed on an upper portion of the divider, the hanger arrangement providing means for relocating the dividers to selected positions along the rail by electrical controls including electrical switches or remote controls; wherein the rails (24) include plurality of spatial configurations, various electrical and communication connection means provided on the rails and the hanger arrangements of the space dividers, the electrical and communication connection means including interface component (46), video modular (34) for various types of speakers, data or computer modulator (36) for storing and operating programming means, a communication modulator such as life microphones (40) coupled to the rail, electrical elements also including lower voltage DC power lines (54), communication cablings (30), AC power and AC power lines, and electrical sockets (176) and receptacles (182), lighting (56), and switch means for controlling the functional accessories, the switch means may be a switch for generating "on/off" states or may be an auto remote control device generally with response to motional signal and radio frequency signal, the electrical and communication connection means being associated with the space dividers for facilitate group communications to the supporting infrastructure, the hanger arrangement including a connector (26) may serve as

a receptacle for electrical junction units (28) attached to an electrical transmission cable (30, 30a), the space divider (20) having vertical power batten (126) for receiving a cable section (124) therethrough, and the AC power line terminated in a pair of electrical receptacles (176,182) mounted on the divider for coupling with the supporting infrastructure and applying electrical and communication signal to functional accessories releasably coupled to the space dividers in an elected location along the rails, and the support means further including adjustable fastener (26) for adjusting the height of the spaced dividers with respect to the rail and the floor.

10. Claims 26, 36, 50-54, 56-64, 81-82, and 88 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,279,643 to Shipman.

Shipman teaches a space division system capably used with a supporting infrastructure inside a building, with the supporting infrastructure providing for distribution of electrical and communication signals, said space division system comprising: a plurality of vertically disposed space dividers (42) (see Fig. 12), overhead support or rails (22) supported by posts (20) freestanding on a floor to provide means for relocation the space dividers at selected locations relative to the position of the supporting infrastructure, the post and the overhead support rails providing support means coupled to supporting infrastructure and to the space dividers for moveably supporting the space dividers from the supporting infrastructure, the space divider (42) each having a hanger arrangement (90) providing a hook configuration mounted on an upper portion of the space divider to selectively and removably coupled on the overhead support rail to provide means for relocating the space dividers to a selected position along the rail with respect to different workstations; the post (20) and rails (22) providing access to utilities through the

rails to couple with the dividers, the system comprising the utilities including power lines for supporting electronic equipments as well as telephone lines, telecommunication lines, and computer network wires, whereby the system includes data and communication signals being transmitted from the computerized apparatus such as a laptop, the computerized apparatus is operable programming means, and switch means for controlling operation of electronic equipments, thereby to provide support means for moveably supporting the supporting infrastructure to the space dividers, the space divider (see Fig. 12) being made of flexible material such as a woven fabric material that is opaque, or a translucent and stretchable material such plastic, the space dividers may comprise pocketed dividers each having an upper structural batten (91) for receiving a rod (93), a lower hemmed section (92) having a weighted insert (97) and a weight member (92) mounted thereon, and a fabric main body (42) with linear voids extending therebetween, and footers (56) providing means for mounting the dividers on the floor, and two adjacent space dividers being coupled together by suitable fasteners such strip clips.

11. Claims 26-28, 30-37, 40, 50, 56, 60-65 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,066,085 to Gimbutas et al.

Gimbutas et al. teach a space division system capably used with a supporting infrastructure inside a building, with the supporting infrastructure providing for distribution of electrical and communication signals, said space division system comprising: a plurality of vertically disposed space dividers (14), an overhead support or rail (see col. 2, line 59) providing support means coupled to a supporting infrastructure and to the space dividers for moveably supporting the space dividers from the supporting infrastructure; a hanger arrangement

(31) disposed on an upper portion of the spacer divider providing means for relocating the dividers to selected positions along a rail by electrical controls including electrical switches or remote controls; and electrical and communication connection means including lighting means embedded within a main body of the divider, and lighting means comprising solid state lighting technology including a plurality of fiber optic strands (18) connected to a light power source (30) such as an AC power with AC power lines for transmitting and /or receiving electrical and communication signals from utilitarian elements which including at least one controlling device (34) for storing data and operating transmitting programming signals by programming means (36) as so to effect a logical lighting control; wherein the divider having power batters for receiving electrical light power lines (26) and having vertical voids (19) for receiving fiber optic strands (18) to provide a plurality of arrow lights.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 26-71, and 81-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,392,420 to Kless and in view of US Patent No. 6,382,825 to Wainwright.

Kless teaches a space division system comprising: an overhanger support or rail (14) being mounted to a ceiling by a suspended support, the rail is arranged to provide spatial configurations with a series of curved-shaped or S-shaped curvatures (i.e., 11, 14, 15), a plurality of space dividers (12) each having a hanger arrangement (22) including hooks (61) provide a

Art Unit: 3636

means for relocating the dividers to selected positions along the rail by electrical controls including electrical switches or remote controls, the space divider further having a main body extending downwardly from the rail to the ground with a lower hemmed section generally formed therebelow, and the main body being made of a fabric that is substantially opaque to define a plurality of subset of partially enclosed workstations with suitable privacy as referring to the locations of the supporting infrastructures as needed. Kless does not specifically define the space divider having electrical and communication connection means as claimed invention. Wainwright teaches a flexible wall panel (12) being made of fabric panel having a plurality of vertical battens and spaced horizontal voids (14) formed by three dimensional transparent and stretchable material (18) to allow a plurality of electrical strands such as fiber optic strands (38) passed therethrough to transmitting and receiving electrical and communication single form the electrical power supply (24) and electrical lighting source (24, 28) such as LED displacing pattern on the main body, and the lighting being controlled by suitable control switches. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the space dividers of Keless having a divider formed with vertical battens and horizontal voids to allow electrical wires passed therethrough as taught by Wainwright for providing a flexible divider having support to allow electrical and communicational wires passed therethrough and coupled with electrical power source to provide lighting means such as arrow LED lights arranged in varying position for lighting the enclosed workstation around by the dividers, and transmitting and/or receiving electrical and communication signals from suitable supporting infrastructures, and to supply electrical and communicational signal to functional accessories.

14. Claim 27-32, 40-49, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell et al. '844, or Deal et al. '100, or Shipman '643 as applied to claim 26 above, and further in view of Tator (US Patent No. 6,472,994).

Although Cornell et al. or Deal et al. or Shipman do not define the space divider comprising lighting means having arrow of lightings being embedded within a main body of the divider for providing visible information to a user. Tator teaches an electrical lighting assembly (14) comprising a strip (36) having a plurality of arrows of lighting indicia (38) which is made of LED lights (28) and activated by activating means including electrical circuits activated by batteries (20) for activating all arrow lights to create an effective pointing in a particular direction for emergency purpose, the strip being mounted on a wall panel surface. It would have been obvious to one ordinary skill in the art that the time the invention was made to modify the space divider of Cornell et al. or Deal et al. or Shipman having a strip of arrow indicia lighting means embedded in a surface of the space divider as taught by Tator for providing a lighting means to be visible by a user and providing emergency indication for providing safety purpose to a user in the working station.

7. Claims 60-63, 65-71, and 83-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell et al. '844, or Deal et al. '100, or Shipman '643 as applied to claim 26 above.

Although Cornell et al. or Shipman do not define the spacer division system having specific utilitarian elements including various type of switches or controlled devices, and audio

apparatus such as speakers as claimed, however a working space station being mounted with various electrical elements such as speakers or telephones or radio are known in the art, and electrical components being operated by electrical power control such as by electrical switches or remote controls are known electrical elements used in the art. So to form the space divider of the work station areas with specific electrical components such as speaker or telephone or radio as claimed would have been obvious matter of design choice to one ordinary skill in the art to one ordinary skill in the art to accommodate various applications as custom needs. To have formed the Cornell et al. or Shipman's space division system having various electrical components, as well known workstation electrical supplies, as well as lighting with removal control, or telephone connections, thus accounting for any particular designed electrical supplies, would have constituted an obvious expedient to one of ordinary skill in the art.

Citations

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tortorella et al. '910 and Smart '254 teach various space division systems including space dividers including flexible curtains as similar to the claimed invention. Beavers et al. '441, Newhouse et al. '267, Fishel et al. '530, and Chenel' 172 teach various space division system having dividers with electrical and communication connection and lighting means as similar to the claimed invention. Kahr '398 teach a space division system having relocating means as similar to the claimed invention. Yuhara '801 teach a flexible display panel having LED lighting means embedded within a main body of the panel as similar to the claimed invention. Montesinos Alonso '652, Harris '711 teach various space dividers having electrical

and communication connection means for transmitting and receiving electrical and communication signal for a removal control as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Winnie Yip/
Primary Examiner
Art Unit 3636